

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2010 JUL 12 PM 1:34

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,)	No. P1300CR20081339
)	
Plaintiff,)	Div. 6
)	
vs.)	DEFENDANT'S REPLY IN
)	SUPPORT OF MOTION FOR
STEVEN CARROLL DEMOCKER,)	REEXAMINATION OF
)	CONDITIONS OF RELEASE
Defendant.)	
)	
)	
)	

On Friday, July 9, 2010, the State responded to Mr. DeMocker's request that this Court reexamine the conditions of his release. The State acknowledges that under Rule 7.4(b) the reassignment of this case from Judge Lindberg to Judge Darrow provides a basis for seeking reconsideration. The State's sole opposition is based on the notion

1 that there are no "material facts not previously presented to the court." Rule 7.4(b). Let
2 us be very clear about the facts that we regard as "material."

3 (1) Steven DeMocker is penniless and his family's resources are limited. Any
4 bond, either cash or security, will come from his family and loved ones. This reality is
5 not new. We are sure that Judge Lindberg was well aware that whatever bond was
6 raised it would be coming from these sources. What Judge Lindberg may not fully have
7 known is that the family simply does not have the ability to raise \$1,000,000. As we
8 said in our motion, however, after a great deal of consultation and communication,
9 members of the family believe that they can accumulate \$350,000 for a bond. Sadly,
10 they cannot do more.

11 A \$350,000 cash bond should more than guarantee the presence of Mr.
12 DeMocker throughout the remainder of this trial. We submit that it is inconceivable
13 that Mr. DeMocker would put at risk of forfeiture funds contributed at great difficulty
14 by his parents and siblings.

15 (2) Changed Family Situations. Steven DeMocker's oldest daughter, Katie,
16 has now graduated from Occidental. As of the end of May, she has returned to Prescott
17 and intends to remain here throughout the remainder of this trial. Judge Lindberg had
18 the opportunity during the first week of trial to assess the credibility of both daughters,
19 Katie and Charlotte. This Court has now had the opportunity, we believe, to read both
20 girls' testimony. We suggest that it is now unmistakably and undeniably clear that
21 Steve DeMocker's daughters are devoted to completing this trial and to stand by their
22 father who they believe to be an innocent man wrongfully charged with the killing of
23 their mother. It is inconceivable that Steve DeMocker would flee in the face of the
24 determined and devoted support of his daughters.

25 (3) It is apparently "new" to the State that the daughters have invested their
26 inheritance in the support of their father's defense to these charges. Possibly, this fact –
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1 although clearly knowable – was not known to the State. Conceivably, therefore, it may
2 not even have been known to Ruth Kennedy and John Kennedy – the other individuals
3 identified as victims in this case. To whatever extent this fact was unknown, it is now
4 clearly known and should be at the top of the list of reasons assuring that Steven
5 DeMocker would never flee. His daughters have given all they have in his support.
6 Steven DeMocker is returning that gift by participating in his defense – a defense from
7 which he would never run.

8 (4) The State dismisses the new projections about the length of this trial as if
9 they are immaterial. We suggest that they are not immaterial to anyone associated with
10 this case – this Court, the Court staff, the jurors, counsel, and support staffs on both
11 sides. For all of us, the extension of this trial for what may be as much as three months
12 beyond what was anticipated only weeks ago, is certainly a powerful and important fact.
13 Imagine how much more important that fact is to the defendant sitting in custody and
14 wearing restraints every time he walks into this courtroom. It is possible that the State
15 finds it necessary to minimize the importance of this fact because the State is so largely
16 – indeed almost entirely – responsible for the delay. We have never received an
17 explanation for how the State managed to get from 14 or 17 trial days to 32. The tragic
18 medical condition sustained by Judge Lindberg touches all of us, but that, too, is a factor
19 entirely unanticipated and certainly not in any way the fault of this incarcerated man.
20 Events beyond his control – and prosecutorial tactical decisions that no one has
21 anticipated on the defense side – have conspired to make this a much longer trial. This
22 is a fact that cannot be ignored.

23 (5) The State also wishes to belittle the fact that Mr. DeMocker is exhausted.
24 The schedule ahead, coupled with what he has endured since the 4th of May, should be
25 enough to tell us all that the endurance of any defendant would be tested and
26 compromised. Mr. DeMocker sleeps at most four hours a night during days when he is
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1 To whatever extent the Court has any residual question about flight, we think it
2 important to consider the maturing technology associated with active GPS monitoring.
3 The system we proposed to Judge Lindberg in this case contemplates a form of
4 monitoring generally unavailable to the County in most cases. We are prepared to
5 demonstrate the technology and to show how it would allow the Court and the Pretrial
6 Services personnel in Yavapai County to limit Steve DeMocker's freedom during the
7 trial. This technology, when seen in conjunction with a very substantial bond
8 accumulated by Mr. DeMocker's family, is a significant guarantee that Mr. DeMocker
9 will be here in this courthouse for as long as it takes to complete this trial.

10 RESPECTFULLY SUBMITTED this 12th day of July, 2010.

11 By: 
12 _____

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22 **ORIGINAL** of the foregoing hand delivered for
23 filing this 12th day of July, 2010, with:

24 Jeanne Hicks
25 Clerk of the Court
26 Yavapai County Superior Court
27 120 S. Cortez
28 Prescott, AZ 86303

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COPIES of the foregoing hand delivered this
this 12th day of July, 2010, to:

The Hon. Warren R. Darrow
Judge Pro Tem B
120 S. Cortez
Prescott, AZ 86303

Joseph C. Butner, Esq.
Jeffrey Paupore, Esq.
Prescott Courthouse basket



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